

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**TONY WHITE,
#Y35649,**

Plaintiff,

vs.

MADISON COUNTY COURT,

Defendant.

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Case No. 19-cv-00841-NJR

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

This case was opened on August 2, 2019, and docketed as a Petition for Writ of Mandamus for administrative purposes. (Doc. 1). Petitioner White did not prepay a filing fee or file a Motion for Leave to Proceed *in forma pauperis* (“IFP Motion”). Because it was unclear to the Court what type of action White intended to bring and different claims may have different consequences, White was ordered to notify the Court by August 21, 2019, whether he intended to file his petition as a writ of mandamus or as some other claim for relief. (Doc. 3).

Instead of notifying the Court of the type of claim he intended to bring, on August 21, 2019, White filed an IFP Motion. (Doc. 4). The Court cannot conduct its preliminary review of this matter until it knows what type of claim White intended to file. Each avenue of relief offers distinct remedies and has distinct consequences that can impact future litigation, including the filing fee associated with the claim. If White’s IFP Motion is granted, the filing fees are \$350 for a writ of mandamus claim or claim brought under Section 1983 and \$5 for a habeas claim. Consequently, the Court cannot guess what White wants and cannot recharacterize a pleading into

a different cause of action. *See Pischke v. Litscher*, 178 F.3d 497(7th Cir. 1999); *Glaus v. Anderson*, 408 F.3d 382 (7th Cir. 2005).

IT IS THEREFORE ORDERED, that White must inform the Court on or before **September 12, 2019**, of what type of claim he intends to bring. **Failure to comply with this Order will result in dismissal of the action for want of prosecution and/or failure to comply with a court order.** FED. R. CIV. P. 41(b). *See generally Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994).

IT IS SO ORDERED.

DATED: August 29, 2019

A handwritten signature in cursive script, reading "Nancy J. Rosenstengel". The signature is written in black ink and is positioned above a horizontal line.

NANCY J. ROSENSTENGEL
Chief U.S. District Judge